

New Jersey Department of Environmental Protection Division of Air Quality (DAQ)

Potential Air Quality Rule Revisions – Stakeholder Meeting

December 19, 2016, 9:00 AM to 12:00 PM
401 East State Street, Trenton, NJ 08625
4th Floor Large Conference Room

Meeting Summary

Presenters: Kenneth Ratzman (Assistant Director, DAQ), Robert Kettig (Chief, Bureau of Stationary Sources), Joel Leon (Section Chief, Air Quality Evaluation), and Danny Wong (Chief, Bureau of Evaluation & Planning)

Facilitator: Tanya Oznowich (NJDEP Communications Program)

Important note: *This document serves as a summary of this meeting; it does not constitute an exact transcription. Department responses to stakeholder questions are only preliminary.*

The New Jersey Department of Environmental Protection (“Department” or “NJDEP”) hosted an invitation-only stakeholder meeting on December 19, 2016 to discuss and receive feedback regarding forthcoming and/or potential changes to the Air Pollution Control Rules, N.J.A.C. 7:27. Invited stakeholder groups included representatives from the regulated community, environmental organizations, academia, and NJDEP Compliance & Enforcement among others. A list of attending participants as well as the PowerPoint presentations given at this meeting have been posted at the Department’s Stakeholder Involvement website: <http://www.nj.gov/dep/workgroups/>.

The stakeholder meeting consisted of a general overview presentation followed by 3 specific topic area presentations. A question and answer session followed each presentation. The discussion is outlined below:

Overview Presentation

The overview briefly discussed the areas of N.J.A.C. 7:27-1 et seq. to which the Department is considering making amendments. Presently, amendments are being considered which would 1) incorporate resiliency measures regarding the use of emergency equipment, portable equipment, temporary equipment, and construction/repair/ maintenance (CRM); 2) update toxic valuations using scientifically based (current) values; 3) incorporate new permit exemptions for specified equipment/operations, and 4) repeal subchapters 30 and 31. Additionally, minor “cleanup” of the current rules would be undertaken. The Department noted that the amendments discussed in today’s

meeting are in large part a result of a continuing discussion with stakeholders to promote the most effective and efficient use of the Department's resources without compromising environmental protection.

Q&A

Stakeholders questioned the timing of the proposed amendments. The Department responded that they are part of the Department's continuing transformation initiative to improve efficiency and create regulatory flexibility without compromising environmental protections. Stakeholders were generally in agreement that the rulemaking should move forward.

Potential Amendments to provide for resiliency measures, permitting exemptions, and cleanup.

The Department is considering amendments to incorporate longstanding guidance and rule interpretations to provide clarity and flexibility for the regulated community. Amendments considered would exempt certain activities from the requirement to obtain an air permit or add additional flexibility to some of the Department's general permits (GPs). Areas considered for exemption include, but may not be limited to, portable emergency generators, rental equipment, qualifying military equipment; certain portable hard drive & paper shredders; conveyance and baling of qualifying material; certain plastic extruders vented indoors; and specific site remediation activities (soil excavation only); small electric generators fueled by vegetable oil; and certain other negligible emitting sources.

Q&A

Stakeholders sought more specificity on a number of the permit exemptions. One stakeholder questioned what would happen if the rule amendments inadvertently missed exempting a CRM scenario? The Department responded that no rulemaking can cover every possible scenario, but a case by case review is still an option if needed. Another stakeholder asked if regulated entities would still need to register their portable equipment for CRM? The Department responded that again not all cases could be covered by rulemaking, but for some cases it may no longer be necessary, for others it might still require registration and/or recordkeeping.

One stakeholder questioned what materials would qualify for the conveyance/baling exemption? The Department is looking to exempt what is clearly "benign," and revise the GP for other materials if warranted.

One stakeholder expressed concern regarding the rental equipment exemption in environmental justice areas. They further asked if the Department would consider a limit to which operations are fully exempt? It is not the Department's intent to exempt an operation that clearly should be regulated.

A question arose regarding the use of portable electric generators used in response to multiple infrastructure improvements within a year. The Department does not believe a recurrence is a common scenario, but will consider whether to make the exemption per event as suggested by the stakeholder.

With respect to the exemption for soil excavation, one stakeholder questioned whether the exemption would be applicable to contaminated soils. The Department noted that the current rules do not require a permit for removing soil, but all other applicable requirements apply. Additionally, there are other regulatory provisions which ensure this soil excavation activity is conducted in an environmentally

responsive manner. For example, odor provisions will still apply, as will toxicity evaluations and risk thresholds.

One stakeholder questioned if the exemptions for portable engines powering portable equipment and the exemption for equipment operated in response to emergency management situations would be extended to mechanical drive engines as well as electric generating engines? The Department did envision that the proposal would exempt these activities also.

One stakeholder questioned whether training on CRM equipment would be exempt, as it's an infrequent activity. The Department will take the suggestion under consideration.

Potential Amendments to Update Toxic valuation using scientifically based values

The Department is considering amendments to the current reporting thresholds for hazardous air pollutants (HAPs), replacing them with emission rates that are health based and use the most recent scientific data and methodologies. Under consideration is the consolidation of the HAP reporting thresholds, currently at N.J.A.C. 7:27-8 and 22, to N.J.A.C. 7:27-17, "Control and Prohibition of Air Pollution by Toxic Substances." This will not eliminate requirements but ensure consistency in the regulation of these materials. Additionally, the Department anticipates cleanup of redundant and antiquated provisions in subchapter 17. The Department intends to conduct a comprehensive statistical study to determine the new reporting thresholds using the latest risk factors and reference concentrations from EPA and California. Risk impacts from minor and major facilities will be assessed in an identical manner.

Q&A

The Department also proposed the following question for discussion: Should the number of reportable HAPs in Sub 21 be expanded for consistency with the HAP list in the new reporting threshold table in subchapter 17? One commenter voiced concern that doing so would represent significant additional work for permittees and questioned the purpose of this amendment other than just for consistency. Another stakeholder suggested that the Department re-review the original basis for the shortened list in Sub 21 and evaluate the NATA data.

One stakeholder questioned the effect of the HAP threshold numbers on the State of the Art (SOTA) provisions. The Department responded that it is not proposing to change the SOTA calculation. However, since the SOTA formula includes a HAP component, if the HAP goes up or down, SOTA will change accordingly. With respect to the modeling and data assumptions behind the HAP thresholds, stakeholders were encouraged to weigh in.

Several questions arose regarding the proposed removal of the present minimum stack height requirements. Department staff confirmed that rather than have a stated minimum height, the stack height will be determined to be at that level which is protective of human health, whether that number is below or higher than the current regulatory number.

One stakeholder asked the Department to consider inserting a clause in the rules which would allow/require changes to the HAP reporting thresholds when health data is updated. This is something that the Department will consider. Input from stakeholders was solicited.

Several stakeholders questioned the mechanism for permitted facilities impacted by these amendments to address them. What would be the timeframe by which a permit would need to be amended? The Department responded that further internal discussion is necessary to determine a reasonable timeframe to address permit conditions for all permit types. Input from stakeholders was solicited.

Potential Repeal of N.J.A.C. 7:27-30 & 31

The Department is considering repealing Subchapters 30 and 31, Clean Air Interstate Rule (CAIR) NOx Trading Program, and NOx Budget Program respectively. In 2009, the federal NOx Budget Program (NBP) and New Jersey's NBP (subchapter 31) was effectively replaced by the federal CAIR rule, making subchapter 31 obsolete. Starting in 2015, USEPA replaced CAIR with the Cross State Air Pollution Rule (CSAPR). CSAPR regulated entities are subject to the federal CSAPR provisions, which supersede those in subchapter 30, effectively making subchapter 30 obsolete. As both subchapter 30 and 31 are effectively obsolete, they are proposed for potential repeal.

Q&A

Stakeholders agreed with the Department that these subchapters should be repealed. A minor concern arose regarding removing any remaining references to these obsolete permits in existing permits. The Department acknowledged that subchapter 30 and 31 provisions still remain in some permits. Presently there is no intention to call in these permits. Staff have already updated permits to remove these obsolete references as modifications and renewals are processed.

Recap and next steps

The Department reminded stakeholders that the meeting agenda and PowerPoint presentations have been posted on the Department's Stakeholder Involvement website. The attendance sheet will be posted as well. Stakeholders were also instructed to send any additional information regarding the proposed amendments to rule manager Terri Slack, at terri.slack@dep.nj.gov for dissemination to staff.

Conclusion

The Department thanked the attendees for their feedback and participation.